

FISCAL AGENT/ ELECTRONIC VISIT VERIFICATION OPERATIONAL DEFINITIONS

Agency with Choice: The agency and participant have a co-employment relationship for workers who provide services to the participant. The following conditions apply:

- The agency is the primary, common-law, employer.
- The participant is the managing employer.
- The agency hires the worker and manages all duties related to tax, labor and workers' compensation rules and regulations.
- The participant may refer a worker to the agency for hire, participate in training the worker and have some control over scheduling and dismissing the worker.

Budget Authority: The participant has choice and control over what goods and services to purchase within their individual budget.

Common-Law Employer: The entity that hires, fires, trains, and manages workers.

Cures Act: The 21st Century Cures Act, signed December 13, 2016, promotes and funds the acceleration of research into preventing and curing serious illnesses; accelerates drug and medical device development; attempts to address the opioid abuse crisis; and tries to improve mental health service delivery. The Act includes several provisions that push for greater interoperability, adoption of electronic health records (EHRs) and support for human services programs.

The Cures Act contains a new Medicaid requirement for mandatory use of Electronic Visit Verification (EVV), which allows nurses and home health aides to check in electronically through software apps or devices and record the exact date, time and location of a visit. Agencies and states will face a financial penalty for failing to implement EVV for personal care and home health care services for Medicaid beneficiaries. The federal government funds 90% of the costs attributed to the design, development or installation of an EVV system and 75% for the operation and maintenance costs.

Electronic Visit Verification (EVV): EVV is a telephone and computer-based system that electronically verifies service visits occur and documents the precise time service begins and ends. EVV is required to be in place by 2019 for personal care services and 2023 for home health services.

Employer Authority: The participant can directly hire workers of their choice and will train, manage, schedule and dismiss such workers.

FSLA Final Rule (2015): The FSLA was passed in 1938 to provide minimum wage and overtime protections for workers, to prevent unfair competition among businesses based on subminimum wages, and to spread employment by requiring employers whose employees work excessive hours to compensate employees at one-and-one-half times the regular rate of pay for all hours worked over 40. Congress explicitly extended FLSA coverage to "domestic service" workers in 1974, amending the Act to apply to employees performing household services in a private home, including those domestic service workers employed directly by households or by companies too small to be covered as enterprises under the Act.

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Under the Final Rule, an individual, family, or household who employs a worker providing companionship services to an elderly person or person with illness, injury, or disability may claim the companionship services exemption from the Act's minimum wage and overtime pay provisions if the employee meets the "duties test." Similarly, an individual, family, or household who employs a worker who resides on the employer's premises to provide domestic service may claim the live-in domestic service employee overtime pay exemption under the Final Rule if the employee meets the residency requirements.

Fiscal Employer Agent (FEA): The participant (or representative) is the common-law employer of workers.

- In most cases, F/EA is a private entity contracted by the state Medicaid agency
- F/EA serves as an Internal Revenue Service (IRS) Section 3504 Agent, under Revenue Procedure 2013-39.
- F/EA shares liability for federal taxes and penalties with the participant/representative common-law employer.
- F/EA is an agent of the participant/representative common-law employer, managing all payments to employees, tax deposits, tax filings, and year-end information returns.

Individual Budget: In self-directed services, the dollar value of the services and supports under the control and direction of the participant.

Person Centered Planning (PCP): PCP is an ongoing problem-solving process used to help people with disabilities plan for their future. In person centered planning, groups of people focus on an individual and that person's vision of what they would like to do in the future. This "person-centered" team meets to identify opportunities for the focus person to develop personal relationships, participate in their community, increase control over their own lives, and develop the skills and abilities needed to achieve these goals. Person Centered Planning depends on the commitment of a team of individuals who care about the focus person. These individuals take action to make sure that the strategies discussed in planning meetings are implemented.

Self-Directed (aka Participant-Directed or Consumer-Directed) Services: Services that are planned and purchased under the direction and control of the participant or their representative, including the amount, duration, scope, provider and location of the service(s).